

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

FILED-CLERK  
U.S. DISTRICT COURT

06 APR -2 AM 10: 51

TEXAS EASTERN

BY

**1. HOLLY ANN SACKS, Individually and as Representative of the Estate of RICHARD TODD SACKS, 2. MELVIN PHILLIP SACKS, and 3. MARILYN PROCTOR,**

***Plaintiffs***

V.

**1. FOUR SEASONS HOTELS LIMITED  
and 2. FOUR SEASONS PUNTA MITA,  
S.A. de C.V.,**

### *Defendants*

504 CV 073  
CIVIL ACTION NO. \_\_\_\_\_  
JURY

## PLAINTIFFS' ORIGINAL COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COME Plaintiffs HOLLY ANN SACKS, Individually and as Representative of the Estate of RICHARD TODD SACKS, MELVIN PHILLIP SACKS, and MARILYN PROCTOR (hereinafter referred to collectively as “Plaintiffs”), complaining of FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V. (hereinafter referred to collectively as “Defendants”), and for cause of action allege and state the following:

## I. Jurisdiction

1.1 Jurisdiction is founded on diversity of citizenship and amount. Jurisdiction is proper under 28 U.S.C. § 1332.

1.2 Plaintiff HOLLY ANN SACKS is a citizen of the State of Texas who resides in Dallas County, Texas, and is the surviving spouse of Decedent RICHARD TODD SACKS. Plaintiff HOLLY ANN SACKS is the Representative of the Estate of RICHARD TODD SACKS.

1.3 Plaintiff MELVIN PHILLIP SACKS is a citizen of the State of Texas who resides in Dallas County, Texas, and is the natural parent of Decedent RICHARD TODD SACKS.

1.4 Plaintiff MARILYN PROCTOR is a citizen of the State of Massachusetts who resides in Norfolk County, Massachusetts, and is the natural parent of Decedent RICHARD TODD SACKS.

1.5 Defendant FOUR SEASONS HOTELS LIMITED is a Canadian corporation that has its principal place of business in Toronto, Ontario. This Defendant, which also does business in Texas, may be served through its registered agent, David L. Herbert, P.C., 1717 Main Street #5400, Dallas, Texas 75201.

1.6 Defendant FOUR SEASONS PUNTA MITA, S.A. de C.V. is a Mexican corporation that has its principal place of business in Nayarit, Mexico. This Defendant, which also does business in Texas, may be served through its registered agent, CT Corporation System, 350 N. St. Paul Street, Dallas, Texas 75201.

1.7 The matter in controversy exceeds, exclusive of costs and interest, the sum of seventy-five thousand dollars.

## **II. Venue**

2.1 Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(d). As aliens, Defendants may be sued in any district.

## **III. Statement of Facts**

3.1 Defendant FOUR SEASONS HOTELS LIMITED is a Canadian-based corporation that operates internationally. Defendant FOUR SEASONS HOTELS LIMITED advertises extensively both in print and on the internet. According to Defendant FOUR SEASONS HOTELS LIMITED's website, Defendant FOUR SEASONS HOTELS LIMITED is a global

luxury brand and the world's leading operator of luxury hotels and resorts, managing sixty-one properties in twenty-nine countries, including the United States and Mexico. Defendant FOUR SEASONS HOTELS LIMITED owns and/or operates at least two luxury hotels in the State of Texas.

3.2 On or about June 6, 2003, Plaintiff HOLLY ANN SACKS and Decedent RICHARD TODD SACKS, residents of Dallas County, Texas, checked into the Four Seasons Resort, Punta Mita, Mexico (the "Four Seasons Punta Mita Resort"). This resort is located in Punta Mita, Bahia de Banderas, Nayarit, Mexico 63734. Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., own, manage, operate, and/or occupy the Four Seasons Punta Mita Resort.

3.3 On or about June 8, 2003, Decedent RICHARD TODD SACKS called the Four Seasons Punta Mita Resort's front desk and asked for medical assistance. The agents, servants, and employees of Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., were negligent in that they did not respond properly to Decedent RICHARD TODD SACKS's request for assistance and/or his ongoing medical emergency.

3.4 Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., and their agents, servants, and employees, were negligent in that they failed to have in place policies and procedures to ensure the safety of their guests/invitees, including Decedent RICHARD TODD SACKS, and/or failed to follow reasonable policies and procedures to ensure the safety of their guests/invitees, including Decedent RICHARD TODD SACKS.

3.5 Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., and their agents, servants, and employees, were negligent in that they failed

to maintain on the premises appropriate equipment with which to respond to Decedent RICHARD TODD SACKS's potentially life-threatening condition.

3.6 As a result of the negligence of Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., and their agents, servants, and employees, Decedent RICHARD TODD SACKS died on June 8, 2003.

#### **IV. Causes of Action**

4.1 The agents, servants, and employees of Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., failed to respond properly to Decedent RICHARD TODD SACKS's request for assistance and/or his ongoing medical emergency. They failed to have in place policies and procedures to ensure the safety of their guests/invitees and/or failed to follow reasonable policies and procedures to ensure the safety of their guests/invitees. The actions and omissions of Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., constitute negligence, and their negligence was the proximate cause of Decedent RICHARD TODD SACKS's death. Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., are vicariously liable for the acts of their agents, servants, and employees.

4.2 Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., and their agents, servants, and employees, breached the duty of care they owed to Decedent RICHARD TODD SACKS. Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., and their agents, servants, and employees, knew or should have known that the condition on the premises of the Four Seasons Punta Mita Resort, including the absence of policies and procedures to ensure the safety of their guests/invitees and the absence of appropriate medical equipment with which to respond to

foreseeable medical situations, created an unreasonable risk of harm to their guests/invitees, such as Decedent RICHARD TODD SACKS. Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., and their agents, servants, and employees, failed to exercise ordinary care to reduce or eliminate that risk or to warn their guests/invitees regarding that risk, and their failure to do so proximately caused Decedent RICHARD TODD SACKS's death. Defendants FOUR SEASONS HOTELS LIMITED and FOUR SEASONS PUNTA MITA, S.A. de C.V., are vicariously liable for the acts of their agents, servants, and employees.

4.3 Pursuant to Texas Civil Practice and Remedies Code § 71.002, Plaintiffs assert a wrongful death claim for the loss of Decedent RICHARD TODD SACKS.

4.4 Pursuant to Texas Civil Practice and Remedies Code § 71.021, Plaintiff HOLLY ANN SACKS, as Representative of the Estate of RICHARD TODD SACKS, asserts a survival cause of action.

## **V. Damages**

5.1 As a proximate result of Defendants' negligence, Plaintiffs have sustained damages that exceed the minimum jurisdictional limits of this Court.

5.2 Plaintiffs seek their actual damages, an amount in excess of \$30,000,000.00, plus court costs.

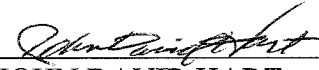
## **VI. Demand for Trial by Jury**

6.1 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs request a trial by jury as to all issues of fact presented herein.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs request that, after trial, a judgment be entered awarding them all damages as requested above, together with pre-judgment

and post-judgment interest as allowed by law, costs of court, and such other and further relief to which they may show themselves justly entitled, in law or in equity.

Respectfully submitted,



JOHN DAVID HART

Attorney-in-charge

State Bar #09147700

THE LAW OFFICES OF JOHN DAVID HART

Chase Texas Tower

201 Main Street, Suite 1720

Fort Worth, TX 76102

817/870-2102 (Telephone)

817/332-5858 (Facsimile)

jhart@hartlaw.com (E-mail)

**ATTORNEY FOR PLAINTIFFS**